



COUNTY OF LOS ANGELES
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Acting County Counsel

September 23, 2009

TO: SACHI A. HAMAI
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: JOHN F. KRATTL 
Senior Assistant County Counsel

RE: **Rafael Martinez v. County of Los Angeles**
Los Angeles Superior Court Case No. TC 020 608

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and the Summary Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary and the Summary Corrective Action Plan be placed on the Board of Supervisor's agenda.

JFK:rfm

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Rafael Martinez v. County of Los Angeles, Los Angeles Superior Court Case No. TC 020 608, in the amount of \$220,000, and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This lawsuit seeks compensation for injuries received in an automobile accident involving an employee of the Sheriff's Department .

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Martinez, Rafael, et al. v. County of Los Angeles.
CASE NUMBER	TC020608
COURT	Los Angeles Superior Court
DATE FILED	July 10, 2007
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$220,000
ATTORNEY FOR PLAINTIFF	John Carpenter, Esq.
COUNTY COUNSEL ATTORNEY	Harold G. Becks, Esq.; Harold G. Becks & Associates
NATURE OF CASE	<p>Two Sheriff's Deputies in a marked patrol unit were responding without emergency lights and siren to a Sheriff-related shooting. They were traveling between 57 and 63 miles per hour. Mr. Martinez and his passenger, Analicia Hurtado entered the intersection at 117th street proceeding east. As the Sheriff's Deputies approached the intersection northbound on Figueroa, they observed Mr. Martinez roll his vehicle through the stop sign and accelerate through the intersection. The Deputy swerved right, but was unable to avoid the collision. As a result of the collision, the patrol unit overturned and came to rest in an adjacent MTA parking lot. Mr. Martinez' vehicle spun counter clockwise and came to rest against a 105 freeway overpass pillar.</p>

This is a case of disputed liability. The Sheriff Deputy was driving between 57 and 63 miles per hour without lights and siren through a residential area at 9:20 p.m. The posted speed limit is 35 miles per hour. Plaintiffs will argue that the Deputies were reckless in responding to a call to assist a fellow officer. A jury may conclude that the Deputy's conduct vitiates our arguments against the plaintiff and award damages accordingly.

PAID ATTORNEY FEES, TO DATE	\$214,946.94
PAID COSTS, TO DATE	\$95,770.76

Summary Corrective Action Plan



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	<p style="text-align: center;"><u>Rafael Martinez v. County of Los Angeles</u> (Summary Corrective Action Plan #2009-014CR)</p> <p>Wednesday, May 10, 2006; 9:20 p.m.</p>
Briefly provide a description of the incident/event:	<p>On Wednesday, May 10, 2006, at approximately 9:20 p.m., an on-duty Los Angeles County deputy sheriff was driving a standard black and white patrol vehicle north on Figueroa Street in response to radio call of another deputy sheriff involved in a shooting. As the deputy entered the intersection of Figueroa Street and 117th Street, Los Angeles, the vehicle he was driving collided with the plaintiff's vehicle.</p>

1. Briefly describe the root cause of the claim/lawsuit:

A public entity is responsible for the negligent acts of its employees when the acts are committed in the course and scope of employment.

As a result of this traffic collision, the plaintiffs (a 68-year-old man and his passenger, a 57-year-old woman) allege they sustained soft tissue injury as well as ongoing neurological and orthopedic complaints to various parts of their bodies including their arms, legs, neck, back and head. Each received lumbar, thoracic, and cervical outpatient discectomy surgeries and chiropractic treatment. The woman also alleges depression, brain injury, memory, and hearing loss. The plaintiffs' orthopedist has recommended further orthopedic procedures with a neurologic surgeon.

The plaintiff's vehicle (2003 Chevrolet Malibu, California License Number 5ALV633) was declared a total loss.

The driver of the patrol vehicle, as well as his passenger, received treatment at a local hospital and were subsequently released.

The patrol vehicle (2001 Ford Crown Victoria, California License Number E1113505) operated by the deputy sheriff was declared a total loss.

County of Los Angeles
Summary Corrective Action Plan

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The Los Angeles County Sheriff's Department had adequate policies and procedures/protocols in effect at the time of the incident.

The Los Angeles County Sheriff's Department's current training curriculum addresses the circumstances which occurred in this incident.

This traffic collision was thoroughly investigated by an officer from the Los Angeles Police Department. The officer concluded that the primary collision factor in this traffic collision was the plaintiff's violation of California Vehicle Code section 21802(a), Stop Signs: Intersections.

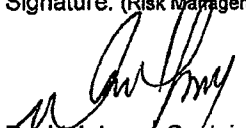

The Los Angeles County Sheriff's Department's administrative review revealed employee misconduct. Appropriate administrative action was taken.

A full and final settlement at this time will avoid further litigation expenses and a potential jury verdict which *may* exceed the recommended settlement amount.

This summary corrective action plan has no countywide implications (refer to #3 below).

3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- ☐ Potentially has County-wide implications.
- ☐ Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☒ Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator)  David J. Long, Captain Risk Management Bureau	Date: 7-30-09
Signature: (Department Head)  Larry L. Waldie Undersheriff	Date: 08-07-09